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 Suite 100  
 Novi, Michigan 48377  
 248.669,5140 | atcgroupservices.com

August 27, 2020

Mr. Matthew J. Kulhanek  
**Fleet & Facilities Manager**  
**City of Ann Arbor**  
 301 E Huron, 6<sup>th</sup> Floor  
 Ann Arbor, Michigan 48104

via email: [mjkulhanek@a2gov.org](mailto:mjkulhanek@a2gov.org)

RE: Proposal for LUST Assessment Reporting  
 City of Ann Arbor Fuel Farm  
 2000 South Industrial Highway, Ann Arbor, Washtenaw County, MI  
 Facility ID No. 0-010237  
 ATC Proposal No. 20-17442.01 (Revised)

Dear Mr. Kulhanek:

ATC Group Services LLC (ATC) appreciates this opportunity to provide the City of Ann Arbor (Client) with this cost estimate to provide lust assessment services and reporting related to a release identified as a result of the excavation and removal of two (2) 15,000-gallon underground storage tanks (USTs) at the referenced site.

ATC has developed this cost estimate based upon information provided by the City of Ann Arbor and by Mr. Rich Williams of Matzak, Inc. (Matzak).

**BACKGROUND**

ATC understands that the Site is an Operations and Transportation Center that formerly used USTs for the storage of gasoline and diesel fuel for use in city vehicles. According to the Michigan Department of Licensing and Regulatory Affairs (DLARA), Storage Tank Information Database (STID), the following information is

<u>Facility Information</u>		<u>Owner Information</u>	
Facility ID:	0-010237	O/O Name:	City of Ann Arbor
Site Name:	Utilities Dept/Field Services	O/O Address:	PO Box 8647/100 N Fifth Av
Site Address:	2000 S Industrial Hwy	City/State:	Ann Arbor, MI 48107
City/State:	Ann Arbor, MI 48104		

Tank ID	Capacity	Contents	Status	Install Date	Remove Date
UTK-028558-15	12000-Gallon	Gasoline	Removed from Ground	4/11/1979	9/5/1992
UTK-005192-15	12000-Gallon	Gasoline	Removed from Ground	4/10/1980	9/5/1992
UTK-095423-15	2000-Gallon	Gasoline	Removed from Ground	---	10/3/1992
UTK-008473-15	2000-Gallon	Diesel	Removed from Ground	---	10/3/1992
UTK-048783-15	1000-Gallon	Diesel	Removed from Ground	---	10/3/1992
UTK-094982-15	15000-Gallon	Gasoline	Removed from Ground	1/1/1992	6/29/2020
UTK-094986-15	15000-Gallon	Diesel	Removed from Ground	1/1/1992	6/29/2020



The STID indicates that the Site reported two confirmed releases, the first (C-1594-92) on 9/14/1992, and the second (C-1524-92) on 9/15/1992. Both releases have been closed to regulatory criteria as of 6/16/1997.

## RECENT ACTIVITIES

Matzak removed the USTs, dispensers and piping on June 29, 2020. ATC collected two (2) dispenser and three (3) piping run soil samples, and one excavation water sample in lieu of tank end soil samples as the excavation was full of groundwater. The samples stored on “wet” ice pending delivery under chain-of-custody to Quantum Laboratories (Quantum, Wixom, Michigan) on June 29, 2020, to be analyzed as follows:

- benzene, ethylbenzene, toluene and xylenes (BTEX) by USEPA analytical method 5035/8260;
- polynuclear aromatic hydrocarbon compounds (PNAs) by USEPA method 8270;

Quantum reported the analytical results to ATC on July 6, 2020. With the exception of the DB-1 and DB-2 dispenser samples the laboratory analyses resulted in “Non-Detect<sup>1</sup>” or less than the Part 213 Risk Based Screening Levels for all analytes tested in all samples.

- DB-1 Dispenser Sample: Benzene, ethylbenzene, naphthalene, 2-methylnaphthalene, toluene and xylenes were identified in the DB-1 sample at concentrations exceeding the unrestricted Part 213 Risk Based Screening Levels (RBSLs).
- DB-2 Dispenser Sample: Benzene, ethylbenzene, naphthalene, toluene and xylenes were identified in the DB-1 sample at concentrations exceeding the unrestricted Part 213 Risk Based Screening Levels (RBSLs).

Based on the field screening results for samples DB-1 and DB-2, ATC notified the DLARA Bureau of Fire Services (BFS) of a suspected release (via email) on June 29, 2020 at 14:18 PM.

With respect to the stockpile samples, the laboratory analyses for the stockpile #1 sample resulted in “Non-Detect” for all analytes tested. Ethylbenzene, toluene and xylene were detected in the stockpile #2 sample, however, all detected concentrations were below the unrestricted Part 213 RBSLs, and the soils were re-used as backfill for the UST excavation.

Based on the detected contaminants at the dispenser area, ATC upgraded the suspected release to a confirmed release (via email) on July 6, 2020 at 14:43 PM the same day.

In a telephone conference call on July 7, 2020 between representatives of Matzak, ATC and the City of Ann Arbor, ATC recommended that sidewall samples be collected from the open excavation sidewalls, and that the soils within a radius of 8-10 feet of the dispensers be excavated to a depth of 8-10 feet, and transported to a landfill.

ATC and Matzak return to the Site on Wednesday, July 15, 2020 to collect the sidewall samples, and to excavate the soils in the vicinity of the dispenser island.

ATC collected eight (8) sidewall and one (1) duplicate sample from the open UST excavation, and four (4) sidewall, one (1) excavation floor, and one (1) duplicate sample from the dispenser excavation. The samples were stored on “wet” ice pending delivery under chain-of-custody to Quantum on July 15, 2020, to be analyzed as follows:

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<sup>1</sup> “Non-Detect” indicates that the parameter was not detectable at concentrations exceeding the EGLE/RRD recommended detection levels (RDLs).



- Michigan Unleaded Gasoline (MI-ULG) parameters, including BTEX, methyl-tert-butyl ether (MTBE), naphthalene, 2-methylnaphthalene and trimethylbenzene (TMB) isomers by USEPA analytical method 5035/8260; and
- PNAs by USEPA method 8270.

Quantum reported the analytical results to ATC on July 20, 2020. Without exception, the laboratory analyses resulted in "Non-Detect" for all analytes tested in all samples.

## RECOMMENDATIONS

Based on the identification of a release at the facility, the Michigan Department of Environment, Great Lakes, and Energy, Remediation and Redevelopment Division (EGLE/RRD) will require that a subsurface investigation be performed to determine the extent and magnitude of the release. ATC's proposed scope of service is attached.

If you should have any questions, comments, or require additional information, please do not hesitate to contact me in our Novi, Michigan office at 248-863-2563. I may also be reached via cell phone at 810-287-1679 or via e-mail at [gerard.debusschere@atcgs.com](mailto:gerard.debusschere@atcgs.com).

Sincerely,

**ATC Group Services LLC**

A handwritten signature in blue ink, appearing to read "Gerard DeBusschere".

Gerard DeBusschere, CPG, LPG  
Sr. Project Manager

A handwritten signature in black ink, appearing to read "April Hehir".

April Hehir  
Sr. Project Manager

Attachments



## ATTACHMENT A – PROPOSED SCOPE OF SERVICES

LUST Assessment and Reporting  
City of Ann Arbor – Fuel Farm  
Ann Arbor, Washtenaw County, Michigan  
ATC Proposal No. 20-17442.01

August 27, 2020

### SCOPE OF SERVICES

ATC personnel will communicate, consult, and coordinate efforts with Client, state coordinators, and subcontractors regarding any aspects of corrective action work. This proposal presents costs associated with the Tier 1 evaluation activities to be conducted at the site to fulfill requirements under Part 213 of NREPA<sup>2</sup> to address the June 29, 2020 release. These activities will include one utility mark-out; three days of drilling oversight with all needed equipment for the installation of monitoring wells; one PM site visit; release reporting to the Michigan Department of Environment, Great Lakes and Energy (EGLE); site evaluation; EGLE notifications; one Health & Safety Plan; two groundwater sampling events (6 wells per event); and one Initial Assessment Report/ Michigan Conceptual Site Model (IAR/MI CSM). All EGLE notifications will be made prior to the start of work. Listed below are the descriptions of activities and costs associated with completing the Tier 1 evaluation activities.

#### Task 1 – Preliminary Activities

ATC was contracted by Matzak to provide environmental oversight with respect to UST removal activities, and a follow-up excavation with disposal of petroleum impacted soils underlying the east dispenser island. ATC has performed the following activities to date:

- ATC prepared a Health and Safety Plan (H&SP) to cover planned environmental sampling at the Site.
- ATC coordinated with Matzak to collect the following samples on June 29, 2020 and July 15, 2020:
  - four (4) tank end, three (3) piping run, two (2) dispenser and one (1) excavation water sample on June 29, 2020;
  - Eight (8) UST excavation sidewall samples on July 15, 2020;
  - Four (4) Dispenser excavation sidewall and one (1) floor sample on July 15, 2020; and
  - One (1) waste characterization water sample on July 15, 2020.
- ATC prepared and submitted to the Michigan Department of Licensing and Regulatory Affairs, Bureau of Fire Services (LARA/BFS) a “Suspected Release” notification on June 29, 2020, and a “Confirmed Release” on July 6, 2020.

Additional preliminary activities will include:

- Provide project management and coordinate field activities, including MISS DIG notification;
- ATC will review the Site Specific Health and Safety Plan, and modify it if necessary to address the anticipated Site activities.

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<sup>2</sup> Natural Resources and Environmental Protection Act 451 of 1994, as amended.



## Task 2 – Site Assessment

ATC will perform an initial site assessment as required under Part 213 to determine to the extent possible, whether there has been a significant release of product from the UST system, and/or whether the mitigation efforts to date have successfully remediated the release.

### Task 2A – Geophysical Survey

ATC will contract with a private utility locating provider to mark buried utilities within the area to be investigated.

### Task 2B – Subsurface Investigation

ATC's scope of work will include the advancement of six (6) soil borings at the Site, and the conversion of all six borings into groundwater monitoring wells to investigate the extent of the release. ATC will:

- Contract the services of a drilling contractor capable of direct push technology (DPT), powered auger and/or hand auger methods.
- ATC anticipates advancing six (6) soil borings to a maximum depth of 25-feet below grade.
  - One (1) boring will be advanced within the former dispenser island area;
  - Three (3) borings will be advanced at locations adjacent to the former UST basin:
    - One boring north of the excavation,
    - One boring south of the excavation, and
    - One boring within the former excavation.
  - One (1) boring will be advanced down-gradient (assumed west) of the UST excavation, and
  - One (1) boring will be advanced up-gradient (assumed east) of the former dispenser island.
- During drilling, soil samples will be collected continuously to be field screened with a photo-ionization detection (PID) device. The results will be recorded on the soil boring log. As many as two (2) soil samples per boring may be collected for laboratory analysis based on PID, visual and/or olfactory data.
- The soil samples selected for laboratory analyses will be submitted to a certified environmental laboratory to be analyzed for the following parameters:
  - Polynuclear aromatic hydrocarbon compounds (PNAs) by USEPA 8270.
  - The EGLE unleaded gasoline subset of volatile organic compounds (VOCs) as defined in "Table 1, Appendix B – Parameters for Commonly Detected Hazardous Substances in Petroleum Products for Soil, Groundwater and Soil Gas" by USEPA method 5035/8260.
  - ATC will collect QA/QC samples in a ratio of one (1) duplicate sample for each ten (10) samples (or portion thereof).
  - ATC anticipates collecting as many as fifteen (15) soil samples for laboratory analyses.
- ATC anticipates that groundwater will be encountered, and all borings are expected to be converted to groundwater monitoring wells.
  - Groundwater monitoring wells will consist of 2-inch diameter by 5-foot long PVC well screens with 2-inch PVC risers to surface.
  - All wells will be completed by backfilling the annular space with a coarse filter sand pack to a height of at least one foot above the well screen, with hydrated, granulated, bentonite chips placed above the sand pack to surface to seal the well bore.
  - Following construction, each well will be developed until each runs clear.
- Native soil and/or bentonite will be used to backfill all borings not converted to groundwater monitoring wells, and a cement patch will be placed to restore the surface.



### *Task 2C – Well Survey*

Each well will be surveyed by ATC to establish both horizontal and vertical elevations, and the depth to groundwater will be measured. Global positioning will be used to establish horizontal relationships, and a laser level to establish vertical.

### *Task 2D – Groundwater Monitoring*

ATC's scope of work will include two (2) groundwater monitoring events.

- ATC will return to the Site one week following well construction to collect the initial groundwater samples.
- ATC will collect follow-up samples approximately 10-weeks later.
- Groundwater samples will consist of:
  - One (1) sample per each well; and
  - One (1) duplicate and one trip blank.

The groundwater samples will be submitted to a certified environmental laboratory to be analyzed for the parameters as described above.

### **Task 3 – Initial Assessment Report**

A Leaking Underground Storage Tank Initial Assessment Report (IAR) along with a Michigan Conceptual Site Model (CSM) will be prepared to fulfill requirements of the EGLE Remediation and Redevelopment Division (RRD), and under Part 213 of PA 4512, as Amended to address open release #Rel-0261-19.

### **Task 4 - Closure Report**

In the event the data obtained as a result of the Initial Assessment will support closure, it will be prepared at an additional cost of **\$6,500.00**. If the Closure Report can be prepared and submitted concurrent with the IAR, a discount of up to \$2,000 may apply

### **COST ESTIMATE**

A detailed cost estimate is provided in Attachment B.

### **SPECIAL CONDITIONS**

- **The cost estimate assumes that no significant release of petroleum product has occurred other than that due to a faulty dispenser.** In the event that a significant release has occurred, additional activities may be required, and ATC will prepare a cost proposal for the necessary follow-up investigation and reporting.
- Standard turnaround time for analytical samples is two (2) weeks. A rush surcharge for forty-eight (48)-hour turnaround can be provided at twice the standard rate.
- Good weather and ground conditions will prevail.
- Suitable site access will be provided by client.
- Field work can be completed within the proposed time frame (5-days) and no changes in scope or administrative requirements occur.
- Project will be billed on time and materials basis. Project invoice will not exceed the estimate plus 10 percent without prior client notification and approval.



## PROJECT SCHEDULE

ATC estimates that within one (1) week after receiving client authorization the proposed services can be initiated. The development of a comprehensive, accurate and reliable work product is of paramount importance and ATC will make every effort to meet the above stated project schedule.

## ACCEPTANCE

If this proposal is acceptable, please sign and return the attached authorization sheet via email or facsimile. Acceptance and approval of this proposal implicitly acknowledges acceptance of the attached limitations, terms, and conditions. This proposal will constitute the entire agreement between the parties, and is valid for a period of 60 days. ATC notes that the conditions of engagement are subject to a credit review and a retainer fee may be required prior to project initiation.

*This document is the property of ATC Group Services LLC and has been prepared for the express use of the City of Ann Arbor for evaluating ATC's proposed scope of services and associated cost. It is not designed or authorized for any purpose other than as part of this proposal. Use of this document by anyone in any fashion for any purpose other than the stated purpose is prohibited.*



**ATTACHMENT B – DETAIL COST BREAKDOWN**

**LUST Assessment and Reporting  
 City of Ann Arbor – Fuel Farm  
 Ann Arbor, Washtenaw County, Michigan  
 ATC Proposal No. 20-17442.01  
 August 27, 2020**

Description	Cost
<b>Task 1 - Preliminary Activities</b>	
Labor	\$ 500.00
<b><i>Sub-Total Task 1</i></b>	<b>\$ 500.00</b>
<b>Task 2 - Site Assessment</b>	
Task 2A - Geophysical Survey	
Labor	\$ 250.00
Sub-Contractor Expense	\$ 905.00
<b><i>Sub-Total Task 2A</i></b>	<b>\$ 1,155.00</b>
Task 2B - Subsurface Investigation	
Labor	\$ 2,830.00
Equipment & Supplies	\$ 615.00
Analytical Expense	\$ 2,573.00
Sub-Contractor Expense	\$ 4,760.00
<b><i>Sub-Total Task 2B</i></b>	<b>\$ 10,778.00</b>
Task 2C - Well Survey	
Labor	\$ 260.00
Equipment & Supplies	\$ 500.00
<b><i>Sub-Total Task 2C</i></b>	<b>\$ 760.00</b>
Task 2D - Groundwater Monitoring (per event)	
Labor	\$ 590.00
Equipment & Supplies	\$ 270.00
Analytical Expense	\$ 2,490.00
<b><i>Sub-Total Task 2D (per event)</i></b>	<b>\$ 3,350.00</b>
<b><i>Sub-Total Task 2D (2 events)</i></b>	<b>\$ 6,700.00</b>
<b>Task 3 - Initial Assessment Reporting</b>	
Labor	\$ 6,500.00
<b><i>Sub-Total Task 3</i></b>	<b>\$ 6,500.00</b>
<b>Task 4 - Closure Reporting</b>	
Labor	\$ 6,500.00
<b><i>Sub-Total Task 4</i></b>	<b>\$ 6,500.00</b>
<b><i>Total Estimated Cost:</i></b>	<b>\$ 32,893.00</b>





**ATTACHMENT C – ATC FEE SCHEDULE**

**LUST Assessment and Reporting  
City of Ann Arbor – Fuel Farm  
Ann Arbor, Washtenaw County, Michigan**

**ATC Proposal No. 20-17442.01**

**August 27, 2020**

Professional Staff	Unit Rate	Unit
Program Manager	\$105.00	Hour
Sr. Engineer	\$105.00	Hour
Sr. Project Manager	\$ 95.00	Hour
Staff Engineer	\$ 95.00	Hour
Sr. Scientist	\$ 85.00	Hour
Branch Safety Officer	\$ 75.00	Hour
Staff Scientist	\$ 75.00	Hour
Environmental Scientist	\$ 65.00	Hour
Sr. Technician	\$ 58.00	Hour
Jr. Technician	\$ 48.00	Hour
CAD Operator	\$ 55.00	Hour
Project Admin.	\$ 45.00	Hour

Equipment	Unit Rate	Unit
Vehicle	\$ 75.00	Day
PID	\$ 35.00	Day
Survey Instruments	\$100.00	Day
Low Flow Sample Equipt.	\$100.00	Day
Water Level Indicator	\$ 25.00	Day
Product Interface Probe	\$ 45.00	Day
Sample Kit	\$ 45.00	Day
Sub-slab vapor Pins	\$ 91.00	Each
Hammer Drill Rental	\$135.00	Day
Trimble GPS Locating Equipment	\$195.00	Day
Nuclear Density Gauge	\$ 25.00	Day
Miscellaneous	\$ 25.00	Day

Vendor Mark-up 10%



**PROPOSAL ACCEPTANCE SHEET**

Proposal Number: 20-17442.01  
Proposed Services: LUST Assessment and Reporting  
Project Name: City of Ann Arbor - Fuel Farm  
Project Location: Ann Arbor, Washtenaw County, MI  
Project Address: 2000 S Industrial Highway  
Ann Arbor, Michigan  
Estimated Cost: **\$32,893.00**

**FOR PAYMENT OF INVOICES:** (Charge Invoice to the Account of)

Client Name: City of Ann Arbor  
Address: 301 E Huron, 6th Floor, Ann Arbor, MI 48104  
Phone: 734.794.6312 Fax:  
Mobile:  
Attention: Matt Kulhanek

<b>Proposal Accepted By:</b>	
_____	_____
Signature	Date

**FOR APPROVAL OF CHARGES:\*\***

Send Invoice To: \_\_\_\_\_  
\_\_\_\_\_

*\*\*If the invoice is to be mailed to someone other than the account charged, please indicate above.*

**Note:** Payment for services is expected within 30 days of the date of the invoice. ATC reserves the right to withhold all reports until such time as we receive a signed Proposal Acceptance Agreement or other written authorization. This AGREEMENT together with ATC's proposal constitutes the entire agreement between the client and ATC and supersedes all prior written or oral understandings for this project. ATC is an Affirmative Action Equal Opportunity Employer and is committed to the policy of equal employment opportunity in ATC recruitment, hiring, career advancements and all other personnel practices. Job-related experience and other qualifications will be considered without discrimination on the basis of race, color, religion, national origin, age, sex, physical or mental disability. AA/EOE/M/F/D/V.

**SPECIAL INSTRUCTIONS:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## Terms and Conditions

**1. SERVICES TO BE PERFORMED** ATC Group Services LLC shall prepare a proposal for Client. The proposal shall describe the work to be performed (Services), the location (Site), fees and/or rates to be charged, certain special conditions of performance including equipment, sampling protocols, and necessary reimbursable expenses. ATC Group Services LLC will be authorized to proceed with the Services, when Client indicates its acceptance by signing this Agreement. The proposal, this Agreement and any attachments pertaining to thereto shall comprise the Contract Document.

**2. ADDITIONAL SERVICES** If any additional or different Services are required to complete the Services, these additional Services shall be set forth in a Change Order satisfying all applicable and appropriate requirements including a separate schedule of fees and Services.

**3. COMPENSATION** Client will pay ATC Group Services LLC for Services and expenses in accordance with the Contract Document. ATC Group Services LLC will submit periodic invoices to Client together with reasonable supporting documentation requested by Client and a final bill upon completion of its services. Unless otherwise agreed in writing, there shall be no retainage. Payment is due within thirty (30) days. ATC Group Services LLC may suspend work, withhold reports and vacate the site without liability if payment is not received. Client, except to the extent caused by the negligence or willful misconduct of ATC Group Services LLC, its employees, agents or contractors, will indemnify ATC Group Services LLC for all claims concerning the suspension of work for nonpayment regardless of whether the claims are by the Client, someone claiming through the client, or by a third party. Client agrees to pay ATC Group Services LLC attorney's fees, and all other costs incurred in collecting past due amounts.

**4. INSURANCE** ATC Group Services LLC agrees that it now carries, and will continue to carry during the performance of any Services under this Agreement, Workers' Compensation and Employer's Liability, Commercial General Liability (including Contractual Liability), Commercial Automobile Liability, Professional Liability and Contractor's Pollution Liability insurance coverage with, at least, an AM Best rating of A and financial size of VIII with limits at or above those described below which may be met with any combination of primary and excess umbrella policies. The Commercial General Liability policy will be endorsed to include the Client as Additional Insured.

<p>a. Workers' Compensation (statutory) Employer's Liability</p> <p><input checked="" type="checkbox"/> Each accident \$ 1,000,000</p> <p><input checked="" type="checkbox"/> Disease - Each Employee \$ 1,000,000</p> <p><input checked="" type="checkbox"/> Disease - Policy Limit \$ 1,000,000</p>	<p>d. Errors and Omissions / Professional Liability</p> <p><input checked="" type="checkbox"/> Each Claim \$3,000,000</p> <p><input checked="" type="checkbox"/> Annual Aggregate \$6,000,000</p>
<p>b. Commercial General Liability</p> <p><input checked="" type="checkbox"/> Each Occurrence \$3,000,000</p> <p><input checked="" type="checkbox"/> Personal and Advertising Injury \$3,000,000</p> <p><input checked="" type="checkbox"/> General Aggregate \$6,000,000</p> <p><input checked="" type="checkbox"/> Products and Completed Operations Aggregate \$6,000,000</p>	<p>e. Contractor's Pollution Liability</p> <p><input checked="" type="checkbox"/> Each Claim \$3,000,000</p> <p><input checked="" type="checkbox"/> Annual Aggregate \$6,000,000</p>
<p>c. Commercial Automobile Liability</p> <p><input checked="" type="checkbox"/> Combined Single Limit \$1,000,000</p>	

**5. OBLIGATIONS OF CLIENT** Client warrants that all information provided to ATC Group Services LLC concerning the required Services is complete and accurate to the best of Client's knowledge. Client agrees to advise ATC Group Services LLC prior to commencement of the Services, and during the work, of any hazardous conditions on or near the Site known to Client. Client understands that ATC Group Services LLC is relying upon the completeness and accuracy of information supplied to it by Client and ATC Group Services LLC will not independently verify such information unless otherwise provided in the Contract Document. Client, except to the extent caused by the negligence or willful misconduct of ATC Group Services LLC, its employees, agents or contractors, shall be responsible for and shall indemnify and hold harmless ATC Group Services LLC for any costs, expenses or damages incurred by ATC Group Services LLC due to Client's failure to follow applicable reporting and governmental requirements. Client will not hold ATC Group Services LLC liable if ATC Group Services LLC recommendations are not followed and waives any claim against ATC Group Services LLC, and agrees to defend, indemnify and hold ATC Group Services LLC harmless from any claim or liability for injury or loss to the extent resulting from failure to properly implement ATC Group Services LLC recommendations.

**6. STANDARD OF CARE** ATC Group Services LLC Services as defined by the Contract Document shall be performed in accordance with generally accepted industry principles and practices, consistent with a level of care and skill ordinarily practiced by the consulting profession currently providing similar services under similar circumstances at the time the Services were provided. Client agrees to give ATC Group Services LLC written notice within one (1) year of any breach

or default under this section and to provide ATC Group Services LLC a reasonable opportunity to cure such breach or default, without the payment of additional fees to ATC Group Services LLC, as a condition precedent to any claim for damages.

**7. LIMITATIONS OF METHOD RELIABILITY** The Client recognizes and agrees that all testing and remediation methods have inherent reliability limitations; no method or number of sampling locations can guarantee that a condition will be discovered within the performance of the Services as authorized by the Client. The Client further acknowledges and agrees that reliability of testing or remediation methods varies according to the sampling frequency and other variables and that these factors, including cost, have been considered in the Client's selection of Services. ATC Group Services LLC observations only represent conditions observed at the time of the Site visit. ATC Group Services LLC is not responsible for changes that may occur to the Site after ATC Group Services LLC completes the Services.

**8. INTERPRETATION OF DATA** ATC Group Services LLC shall not be responsible for the interpretation of ATC Group Services LLC data by third parties, or the information developed by third parties from such data. Client recognizes that subsurface conditions may vary from those encountered at the locations where the borings, surveys, or explorations are made by ATC Group Services LLC and that the data interpretations and recommendations of ATC Group Services LLC personnel are based solely on the information available to them.

**9. THIRD PARTY INFORMATION** ATC Group Services LLC is dependent on information available from various governmental agencies and private database and title search companies to aid in evaluating the history of the Site. ATC Group Services LLC shall not be liable for any such agency's or company's failure to make relevant files or documents properly available, to properly index files, or otherwise to fail to maintain or produce accurate or complete records.

**10. SITE ACCESS** Client grants or shall obtain for ATC Group Services LLC a right of entry to all parts of the Site necessary to complete the requested Services and unless otherwise specified in the Contract Document, it represents that it has obtained the applicable permits and licenses for the proposed Services. If Client does not own the Site, Client represents that it has or will obtain prior to the commencement of the Services, the authority and permission of the owner and/or the occupant of the Site. Client acknowledges that due to the nature of some Services unavoidable damage may occur. Client waives its right of recovery for such unavoidable damage, and if Client is not the owner of the Site, Client agrees to indemnify and defend ATC Group Services LLC against any claims by the owner and/or occupant for any such damage. Unless otherwise specified in the Contract Document, ATC Group Services LLC is not liable for damages caused by exploratory demolition or investigation to identify, quantify, or evaluate building materials, systems, and/or components not readily accessible to ATC Group Services LLC during ATC Group Services LLC performance of the Services. ATC Group Services LLC is not responsible for unforeseen conditions that exist on the Site within building systems that prohibit or deter ATC Group Services LLC from gaining access to building materials, systems, and/or components.

**11. TEST AND SAMPLING LOCATIONS** Unless otherwise specified in the Contract Document, the accuracy of test or sampling locations and elevations will be commensurate only with pacing and approximate measurements or estimates. Client should retain the services of a professional surveyor if greater accuracy is required. Client will furnish a diagram indicating the accurate location of the Site. Sample locations may also be indicated on the diagram. ATC Group Services LLC reserves the right to deviate a reasonable distance from the boring and sampling locations unless this right is specifically revoked by Client in writing at the time the diagram is supplied.

**12. SAMPLES AND EQUIPMENT** Unless otherwise specified in the Contract Document or required by law, ATC Group Services LLC will not retain any samples obtained from the Site. At no time does ATC Group Services LLC assume title to the samples; all samples shall remain the property of the Client. ATC Group Services LLC will, however, sign manifests as agent for Client.

All laboratory and field equipment contaminated during ATC Group Services LLC Services that cannot readily and adequately be cleansed of its hazardous contaminants shall become the property and responsibility of Client. Client shall purchase all such equipment as an expense of the Services, and it shall be turned over to the Client for proper disposal unless otherwise specified in the Contract Document.

**13. OPINIONS OF COSTS** ATC Group Services LLC may provide estimates of costs for remediation or construction as appropriate based on available data, designs, or recommendations. However, these opinions are intended primarily to provide information on the range of costs and are not intended for use in firm budgeting or negotiation unless specifically agreed to in writing by ATC Group Services LLC.

**14. SAFETY** ATC Group Services LLC shall, unless otherwise specified in the Contract Document, be responsible for health and safety procedures, construction means, methods, techniques, sequences, or procedures, however, ATC Group Services LLC shall not be responsible for the acts or omissions of contractors or other parties on the Site.

**15. UTILITIES** Unless otherwise specified in the Contract Document, it is Client's responsibility to mark or furnish the locations of all underground man-made obstructions at all Sites that the Client owns and/or operates. Client, except to the extent caused by the negligence or willful misconduct of ATC Group Services LLC, its employees, agents or contractors, shall indemnify, defend and hold harmless ATC Group Services LLC from and against any claims, losses or damages incurred or asserted against ATC Group Services LLC related to Client's failure to mark, protect or advise ATC Group Services LLC of underground structures or utilities.

**16. ROOF CUTS** Unless otherwise specified in the Contract Document, if roof cuts/samples are required by the Services, it is the responsibility of the Client to make appropriate repairs. If a roofing contractor or maintenance personnel selected by Client is not on the roof to make repairs at the time samples are obtained, ATC Group Services LLC may make temporary repairs, which may result in additional charges. ATC Group Services LLC personnel are not certified in roofing repair, therefore under no circumstances, shall ATC Group Services LLC be responsible for any water damage to the roofing system, building, or its contents resulting from ATC Group Services LLC temporary repairs.

**17. HAZARDOUS CONDITIONS OR SUBSTANCES** The Client acknowledges that ATC Group Services LLC has neither created nor contributed to the creation or existence of any hazardous, radioactive, toxic, irritant, pollutant, substance or constituent at the Site. All Site generated hazardous and non-hazardous waste, including used disposable protective gear and equipment, are the property of the Client. Client, except to the extent caused by the negligence or willful misconduct of ATC Group Services LLC, its employees, agents or contractors, agrees to indemnify and hold harmless ATC Group Services LLC against all claims for injury or loss sustained by any party, including the United States, from exposure, release, or the presence of any such hazardous, radioactive, toxic, irritant, pollutant, substance or constituent at the Site. This indemnity includes but is not limited to, ATC Group Services LLC acting as Client's agent to sign waste manifests, allegations that ATC Group Services LLC is a handler, generator, operator, treater or storer, transporter or disposer under any federal, state or local, law, regulation or ordinance, and Client's or third party's violation of federal, state or local, law, regulation or ordinance, related to the handling, storage, or disposal of hazardous substances or constituents at/or introduced to the Site, before or after the completion of the Services.

**18. RIGHT TO STOP WORK** If, during the performance of a Contract Document, any unforeseen hazardous substance, material, element, constituent, condition, or occurrence is encountered which, in ATC Group Services LLC reasonable judgment significantly affects or may affect the Services provided, the risk involved providing the Services, or the recommended scope of Services, ATC Group Services LLC may immediately suspend work.

**19. ATC GROUP SERVICES LLC AND CLIENT INDEMNIFICATION** ATC Group Services LLC shall indemnify and hold harmless Client against claims, demands, and lawsuits, to the extent arising out of or caused by the negligence or willful misconduct of ATC Group Services LLC, in connection with activities conducted in the performance of the Services. The Client shall indemnify and hold harmless ATC Group Services LLC from and against claims, demands, and lawsuits, to the extent arising out of or caused by Client's breach of this Agreement or the negligence or willful misconduct of the Client or other contractors retained by Client in connection with activities conducted in the performance of the Services. If a dispute arises between the parties resulting in litigation, the prevailing party shall be entitled to recover all reasonable costs incurred. Client agrees that all indemnifications granted to ATC Group Services LLC shall also be granted to those subcontractors retained by ATC Group Services LLC for the performance of the Services.

**20. LIMIT OF LIABILITY** ATC Group Services LLC total liability for all claims or causes of action of any kind including but not limited to negligence, bodily injury or property damage, breach of contract or warranty shall not exceed the amounts recoverable from the insurance limits set forth in this Agreement.

**21. CONSEQUENTIAL DAMAGES** In no event shall either party be liable to the other party for any consequential, incidental, punitive, or indirect damages including but not limited to loss of income, loss of profits, loss or restriction of use of property, or any other business losses regardless if such damages are caused by breach of contract, negligent act or omission, other wrongful act, or whether ATC Group Services LLC shall be advised, shall have other reason to know, or in fact shall know of the possibility of such damages.

**22. WARRANTY** ATC Group Services LLC is not a manufacturer. If any equipment is used or purchased by ATC Group Services LLC for the Services the manufacturer's warranties if any on the equipment are solely those of the manufacturer. ATC Group Services LLC makes no other representation, guarantee, or warranty, expressed or implied, in fact or by law, whether of merchantability, fitness for any particular purpose or otherwise, concerning any of the goods or Services which may be furnished by ATC Group Services LLC to Client.

**23. DOCUMENTS** Project-specific documents and data produced by ATC Group Services LLC under this Agreement shall, upon completion of the Service Order become the property of Client upon payment of amounts owed ATC Group Services LLC. ATC Group Services LLC shall have the right, but not the obligation, to retain copies of all such materials.

**24. RELIANCE** Documents and data produced by ATC Group Services LLC are not intended or represented by ATC Group Services LLC to be suitable for use or reliance beyond the scope or purpose for which they were originally prepared, or for anyone except the Client unless authorized in writing by ATC Group Services LLC. Any such unauthorized use will be at the Client's or third party's sole risk.

**25. THIRD-PARTY CLAIMS** Client, except to the extent caused by the negligence or willful misconduct of ATC Group Services LLC, its employees, agents or contractors, agrees to pay ATC Group Services LLC costs (including reasonable attorney's fees) for defending ATC Group Services LLC against any claims that a third party or a regulatory agency asserts against ATC Group Services LLC related to the Services that were provided to Client. Claims include legal actions by a third party or a regulatory agency that are based upon the discoveries, findings or conclusions disclosed in documents or reports supplied to Client by ATC Group Services LLC.

**26. SUBPOENAS** The Client is responsible for payment of ATC Group Services LLC time and expenses resulting from ATC Group Services LLC response to subpoenas issued by any party, involving any legal or administrative proceeding in which ATC Group Services LLC is not named as a party, in connection with any Services performed under this Agreement. Charges are based on fee schedules in effect at the time the subpoena is served. ATC Group Services LLC shall not object on Client's behalf to any subpoena, but will make reasonable efforts to cooperate with Client if Client chooses to object.

**27. TERMINATION OF CONTRACT** This Agreement may be terminated by either party upon thirty (30) days written notice provided that any incomplete or unfinished Contract Document will remain in effect until completed, unless otherwise agreed to in writing. In the event of termination or suspension, by the Client, ATC Group Services LLC shall be paid for Services performed prior to the termination date plus reasonable termination and suspension expenses.

**28. ASSIGNMENT** Neither the Client nor ATC Group Services LLC may assign, or transfer its benefits, rights, duties, or interest in this Agreement without the written consent of the other party. This Agreement shall be binding on and inure to the benefit of the successors and assigns of the parties.

**29. FORCE MAJEURE** Neither Client nor ATC Group Services LLC shall hold the other responsible for damages or delays in performance caused by uncontrollable events, which could not reasonably have been anticipated or prevented, including but not limited to, acts of God, the public enemy, acts of the Government of the United States or of the several states, or any foreign country, or any of them acting in their sovereign capacity, materially different Site conditions, wars, riots, terrorism, rebellions, sabotage, fires, explosions, accidents, floods, strikes, or other conceded acts of workers, lockouts, or changes in laws, regulations, or ordinances.

**30. FAX COPIES AND ELECTRONIC SIGNATURES** The parties expressly agree that any fax Copy of these terms and conditions with a signature or any "PDF" file or any other method of Electronic Signature transmitted electronically on these terms and conditions by the person or entity whose signature is thereby transmitted shall be treated conclusively as an original signature and an original document for any and all purposes, including evidentiary, without the need to produce an original hard copy document with signature.

**31. GENERAL PROVISIONS** The captions and headings throughout this Agreement are for convenience only and do not define, limit, modify, or add to the meaning of any provision of this Agreement. If any provision of this Agreement is in conflict with any provision of the proposal, the terms and conditions of this Agreement shall prevail unless the conflict concerns the scope of Services to be provided. If any provision shall to any extent be deemed invalid, it shall be modified if possible to fulfill the intent of the parties as reflected in the original provision and the remainder of this Agreement shall not be affected. This Contract Document represents the entire understanding between the parties and supersedes any and all prior contracts whether written or oral. Nothing contained in this Contract Document shall be construed to be for the benefit of any persons not a party to this Agreement. No third party beneficiary rights are created. The validity, interpretation, and performance of this Agreement shall be governed by and construed in accordance with the laws of the state in which the Site is located. Any legal action arising out of this Agreement shall be venued in a court of competent jurisdiction within the state and county of the Site. No waiver by either party of any default by the other party in the performance of any provision of this Agreement shall operate as or be construed as a waiver of any future default, whether like or different in character. ATC Group Services LLC is solely responsible for the performance of this Agreement, and no parent, subsidiary or affiliated company, or any of its directors, officers, employees, or agents shall have any legal responsibility whether in contract or tort, including negligence.